

VZCZCXRO7497
RR RUEHROV
DE RUEHNR #1106/02 1550537
ZNR UUUUU ZZH
R 040537Z JUN 09
FM AMEMBASSY NAIROBI
TO RUEHC/SECSTATE WASHDC 9714
INFO RUCNIAD/IGAD COLLECTIVE
RUEHCP/AMEMBASSY COPENHAGEN 0214
RUEHLO/AMEMBASSY LONDON 3208
RUEHDR/AMEMBASSY DAR ES SALAAM 6564
RUEHFR/AMEMBASSY PARIS 3079
RUEHMO/AMEMBASSY MOSCOW 0324
RUEHYN/AMEMBASSY SANAA 0508
RUEHTC/AMEMBASSY THE HAGUE 1074
RUEHPL/AMEMBASSY PORT LOUIS 1721
RUEAWJA/DOJ WASHDC
RUZEFAA/CDR USAFRICOM STUTTGART GE
RUZEFAA/HQ USAFRICOM STUTTGART GE

UNCLAS SECTION 02 OF 03 NAIROBI 001106

SENSITIVE

DEPT FOR AF/E Driano, AND S/CT
AF/RSA FOR BITTRICK AND BANDO
INL FOR SILENSKY
DOJ/OPDAT FOR ALEXANDRE, BERMAN, SILVERWOOD, KALASHNIKOVA
DOJ FOR CRIM, DAAG, SWARTZ

SIPDIS

E.O. 12958:N/A
TAGS: [KJUS](#) [PHSA](#) [KCRM](#) [ASEC](#) [PREL](#) [KE](#)
SUBJECT: Kenya and Piracy Prosecutions

* Missing Section 001 *

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agreements; 8) a project with the Kenya Law Reports and a local law school to develop a curriculum for a trial advocacy course at the law school and a criminal trial practitioners' manual; and 9) a project with the Kenya Law Reports to institute further pilot projects introducing court reporting and stenography in the courts. (Note: Since last August, the USDOJ/RLA program has been involved in training over 550 law enforcement personnel, prosecutors, and judges on a variety of topics, including trial advocacy, forensics, financial investigations, drafting criminal charging documents, witness protection, cyber crime, mutual legal assistance, sexual offenses, and piracy. End note.)

15. (SBU) The meeting concluded in a discussion of the case of the 17 pirate suspects currently held by the U.S. Navy. The RLA summarized the case, provided the DPP with an advanced copy of the documentary evidence in that case, and asked the DPP for an expedited response to our request that the GOK accept the case. The DPP telephoned the AG. Following their conversation, the DPP informed the RLA that the AG had emphasized that the U.S. support for the State Law Office had been long-standing, predating the current piracy problems, and, therefore, the GOK could not refuse our request. The AG understood and appreciated that the U.S. was attempting to persuade the Egyptians or Greeks to accept the case, before coming to Kenya.

16. (SBU) The RLA also expressed his view to the DPP that an operable plea agreement program in Kenya could be very effective and efficient in dealing with the piracy cases. The RLA has been reluctant to pursue this strategy (or even mention it to non-U.S. partners) in the context of piracy because of the practical and political concerns with implementing a new plea regime in the unique circumstances of these cases. The DPP, however, was enthusiastic about this approach and had a different view regarding the sensitivities of using plea agreements in this context. The DPP

believes that the use of pleas in these cases might engender less popular dissent (or political pressures) than the use of such agreements in cases involving corruption, homicide and sex crimes, for example. The DPP agreed that this approach is best kept confidential until we can study it further. The U.S. is quite comfortable with and proficient at the plea process and we see its immediate benefits, including efficiency and docket reduction. Kenya and other countries, including those in the EU, might be less immediately sanguine about its use, particularly without adequate preparation.

INTERNATIONAL SUPPORT FOR PIRACY PROSECUTIONS

17. (SBU) On May 28, the DCM, Polcouns, and RLA joined a meeting convened by Alan Cole, the coordinator for the new UNODC anti-piracy program based in Nairobi; the meeting included representatives of the EC, various EU countries, and other "donor" governments involved in international counter-piracy efforts. (Note: Cole is a retired British Royal Navy Commander and lawyer. End Note.) Cole began with a summary of the current state of play in Kenya. Sixty-seven (67) Somali pirate suspects are "on remand" -- incarcerated (all in Shimo La Tewa Prison in Mombasa) in Kenya awaiting disposition of their cases. Ten others were convicted and sentenced on May 12, 2009 to 8 years imprisonment (these suspects were turned over by the U.S. in 2006). (Note: Sweden transferred another 13 to Kenya on June 3.) The Seychelles is holding 23 suspects on remand and Yemen another 20; the Netherlands has 5, France 9 and the U.S. 1 (one).

18. (SBU) Cole outlined the UNODC program, which has been funded by the EU and is designed to operate for 18 months. The largest portion of the funding is directed toward support and improvement of Kenya's prison system (500,000 Euros). The program will also spend a significant amount of money on prosecutorial support (over 200,000 Euros), program support (over 250,000 Euros), and witness and trial support (over 200,000 Euros). The program will also provide funding for police and maritime, logistics, legislative reviews, and support to other countries in the region.

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